IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3180 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

KANJIBHAI CHHAGANBHAI PARMAR

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 3180 of 2001
MR MR BAROT with MR HRIDAY BUCH for Petitioner No. 1-4
MR MANISH DAGLI, AGP for Respondent No. 1-3
RULE SERVED for Respondent No. 4

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 09/05/2002

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution, the petitioners have prayed for a writ of mandamus to direct the State of Gujarat, the District Development Officer, Ahmedabad District Panchayat and the Collector, Ahmedabad to separate Digvijaynagar area from Ranip Municipality (respondent No. 4 herein) and to

direct the respondent authorities to constitute a separate village panchayat for the said area. The petitioners claim to have made several representations for separating the Digvijaynagar area and for constituting the same into a village panchayat.

2. The Court's attention is invited to the directions given by this Court on 26.4.1996 in Special Civil Application No. 3221 of 1995 where also a similar claim was made. The Court disposed of that petition in the following terms :-

> "The petitioners seek a direction on the respondents Nos. 1 and 2 that areas of certain Co-operative Housing Societies mentioned in the petition should be excluded from the Ghatlodia Nagar Panchayat and Chandlodia Gram Panchayat and be included in the limits of Nirnaynagar Gram Panchayat. The matters of including areas in a Gram Panchayat or excluding areas therefrom are better left to the concerned authorities under the relevant law and cannot be decided by the High Court in exercise of its writ powers. The learned counsel for the petitioners states that the petitioners have made applications to the respondent authorities for inclusion of the areas of Co-operative Housing Societies mentioned in the petition in Nirnaynagar Gram Panchayat but no decision is being taken on such applications. Two such applications are annexed at Annexure-B collectively to this petition. If such applications have been received by the concerned authorities, they should consider the same and taken appropriate decision in accordance with law preferably within six weeks from today. In view of this position, the learned counsel for the petitioners submits that the petitioners seek permission to withdraw this petition. This petition is rejected as withdrawn. Direct Service is permitted."

3. This Court respectfully agrees with the aforesaid observations. There is no reason why the present petition should also not be disposed of in the same terms. The matters of including areas in a Gram Panchayat or excluding areas from a Municipality are better left to the concerned authorities under the relevant law and are not to be decided by this Court in exercise of its writ jurisdiction. Mr MR Barot with Mr Hriday Buch, learned counsel for the petitioners state that the petitioners have made representations to the

respondent-authorities for separating the Digvijaynagar area from Ranip Municipality and to constitute them into a separate gram panchayat, but no decision is being taken on such representations. The learned counsel, of course, point out that earlier the Digvijaynagar Cement Co. Ltd. had made such a request and it was turned down by the State Government and the petitioners were accordingly informed by the District Collector by his order dated 6.1.2001 which is at Annexure "A" to the petition.

The learned counsel for the petitioners further point out that in view of the abolition of octroi with effect from 1.5.2001, the reasons for not accepting the request of the Digvijaynagar Cement Co. Ltd. would not survive and that the petitioners' representations may be considered on their own merits.

4. In view of the aforesaid, this petition is disposed of with a direction to the respondents that if the representations made by the petitioners which are at Annexure "E" collectively are received by the concerned authorities, such authorities shall consider the representations and take appropriate decision thereon in accordance with law at the earliest and preferably by 30.6.2002.

5. The petition is accordingly disposed of in terms of the aforesaid direction and observations. Rule is made absolute to the aforesaid extent with no order as to costs.

Direct Service is permitted and shall be effected by 15.5.2002.

(M.S. Shah, J.)
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